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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 23rd February, 1993:—

BILL No. 6 OF 1993

A Bill further to amend the Essential Commodities (Special Provisions) Act, 1981 and to make special provisions by way of amendment to the Essential Commodities Act, 1955.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Essential Commodities (Special Provisions) Amendment Act, 1993.

Short
title
and com-
mence-
ment.

(2) It shall be deemed to have come into force on the 27th day of August, 1992.

2. In paragraph 2 of the preamble to the Essential Commodities (Special Provisions) Act, 1981 (hereinafter referred to as the principal Act), for the words "ten years", the words "fifteen years" shall be substituted.

Amend-
ment of
Preamble.

3. In section 1 of the principal Act, in sub-section (3), for the words "ten years", the words "fifteen years" shall be substituted.

Amend-
ment of
section
1.

18 of 1981.

Insertion
of new
section
9A.

4. After section 9 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
10AA.

'9A. In the Essential Commodities Act, 1955, after section 10A, the following section shall be inserted, namely:—

10 of 1955.

Power
arrest.

"10AA. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no officer below the rank of an officer in charge of a police station or any police officer authorised by him in this behalf in writing, shall arrest any person accused of committing an offence punishable under this Act."

2 of 1974.

Repeal
and
saving.

5. (1) The Essential Commodities (Special Provisions) Amendment Ordinance, 1993 is hereby repealed.

Ord.
1 of 1993.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Essential Commodities Act, 1955 (hereinafter referred to as the principal Act) provides for regulation of production, supply and pricing of essential commodities. The principal Act has been amended from time to time to make its provisions more effective.

2. With a view to dealing more effectively with persons indulging in anti-social activities like hoarding and blackmarketing and the evil of vicious inflationary prices, the Essential Commodities (Special Provisions) Act, 1981 was enacted by Parliament. The said Act made special provisions by way of amendments to the principal Act for a temporary period of five years. These provisions related *inter alia* to—

(i) the trial in a summary way of all offences under the principal Act;

(ii) the constitution, for the purposes of such trial, of Special Courts, consisting of a single Judge appointed by a High Court, who is to be a person qualified to be a Judge of a High Court or who is or has been a Sessions Judge or an Additional Sessions Judge for not less than one year;

(iii) providing minimum mandatory imprisonment for a period of not less than three months for all offences except an offence of abetment in regard to procuring of foodstuffs or drugs by persons for their own use or for the use of any member of their family, and not for the purpose of carrying on any business or trade which is punishable with fine only;

(iv) providing for enhancement of the term of imprisonment awardable in case of conviction in a summary trial from one year to two years;

(v) making of all offences under the principal Act to be non-bailable;

(vi) providing for stricter provisions for grant of bail and making it obligatory on the part of the Special Courts to give an opportunity to the prosecution to oppose the bail application.

3. The provisions of the Essential Commodities (Special Provisions) Act, 1981 were brought into force on the 1st day of September, 1982 in all the States and Union territories except the Andaman and Nicobar Islands, Arunachal Pradesh, Dadra and Nagar Haveli, Lakshadweep and Mizoram. The said provisions were extended by the Essential Commodities (Special Provisions) Continuance Act, 1987 (25 of 1987) for a further period of five years with effect from the 1st day of September 1987.

4. The reasons for which the above-mentioned special provisions were enacted and brought into force still continue to exist. The question of their continuance has, therefore, been considered in consultation with the State Governments and Union territories administrations, who are of the view that the said provisions have proved very useful and

effective and should continue in force. Keeping these aspects in view, the Essential Commodities (Special Provisions) Amendment Ordinance, 1992 (Ord. 12 of 1992) was promulgated by the President on 27th August, 1992 to extend the life of the Essential Commodities (Special Provisions) Act, 1981 for a further period of five years with effect from the 1st day of September, 1992.

5. The Essential Commodities (Special Provisions) Amendment Bill, 1992, was introduced in the Lok Sabha on the 24th November, 1992 with a view to replacing the said Ordinance by an Act of Parliament.

6. The Bill, however, could not be considered and passed by the Lok Sabha.

7. Government is of the considered view that it is in the public interest that the Essential Commodities (Special Provisions) Act, 1981 should continue in force for a further period of five years alongwith the amendments made. The lapse of the said Act would be detrimental to the interests of effective regulatory administration in the sphere of distribution of essential commodities. To achieve the above objective the Essential Commodities (Special Provisions) Amendment Ordinance, 1993 (Ord. 1 of 1993) was, therefore, promulgated by the President on 2nd January, 1993.

8. A new section 10AA had also been inserted in the principal Act to provide that no officer below the rank of an officer in charge of a police station or any police officer authorised by him in writing shall arrest a person accused of committing an offence punishable under the Act.

9. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 15th February, 1993.

A. K. ANTONY

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to extend the period of operation of the Essential Commodities (Special Provisions) Act, 1981 for a further period of five years with effect from the 1st day of September, 1992. By virtue thereof, the Special Courts established under section 12A of the Essential Commodities Act, 1955 will continue and new Special Courts can also be established in the next five years. The expenditure on such Courts in the Union territories which do not have their own Consolidated Funds will have to be met by the Central Government.

2. A provision of Rs. 2 lakhs and Rs. 1 lakh per annum for recurring and non-recurring expenditure under non-plan was made at the time of giving extension in 1987. It is indicated that in the Union territories such as Delhi, Chandigarh and Pondicherry, where such Courts have been set up, the existing Sessions/Additional Sessions Courts have been designated as Special Courts to try offences under the Essential Commodities Act, 1955. Therefore, there is presently no extra expenditure likely towards the salaries of Judges and the supporting staff which are met from the non-plan Budget for the Union territories for judicial establishments. However, a token outlay of recurring and non-recurring expenditure respectively of Rs. 2 lakhs and Rs. 1 lakh only for the first year in respect of the Union territories is anticipated.

BILL No. 7 OF 1993

A Bill to provide for certain immunities to the subscribers of the Gold Bonds and for certain exemptions from direct taxes in relation to such Bonds and for matters connected therewith or incidental thereto.

WHEREAS with a view to mobilising the idle gold resources of residents in India, it is expedient to provide for certain immunities and exemptions to render it possible for such residents to subscribe to Gold Bonds;

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Gold Bonds (Immunities and Exemptions) Act, 1993.

(2) It shall be deemed to have come into force on the 31st day of 10 January, 1993.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “Gold Bonds” means the Gold Bonds, 1998, issued by the Central under section 3;
under section 3;

(b) “subscriber” means an individual, a Hindu undivided family, trustees of a trust, a firm or a company, being a resident or residents in India, who has or have initially subscribed to the Gold Bonds.

Explanation—For the purposes of this clause, the expression “individual” shall also include,—

(i) his legal heirs; or

(ii) where a partition has taken place among the members of the Hindu undivided family, every member of such family having a share in the Gold Bonds;

43 of 1961.

(c) all other words and expressions used in this Act but not defined and defined in the Income-tax Act, 1961 shall have the meanings respectively assigned to them in that Act.

3. (1) The Central Government may, by notification in the Official Gazette, frame a scheme for subscription to the Gold Bonds, 1998, on or after the date of commencement of this Act, but before the specified date.

Gold
Bonds
scheme.

Explanation—For the purposes of this subsection, “specified date” means the 31st day of March, 1993 or such other later date as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) The scheme framed under sub-section (1) shall be laid, as soon as may be after it is framed, before each House of Parliament.

27 of 1957,
18 of 1958,
43 of 1961,
52 of 1962,
46 of 1973,
49 of 1976

4. (1) Notwithstanding anything contained in the Wealth-tax Act, 1957, the Gift-tax Act, 1958, the Income-tax Act, 1961, the Customs Act, 1962, the Foreign Exchange Regulation Act, 1973 and the Foreign Contribution (Regulation) Act, 1976,—

Immuni-
ties.

(a) no subscriber shall be required to disclose, for any purpose whatsoever, the nature and source of acquisition of the gold subscribed for the Gold Bonds, including the source of money with which the gold was acquired;

(b) no inquiry or investigation shall be commenced against any subscriber under any of the said Acts on the ground that such subscriber owns the Gold Bonds; and

(c) the fact that any subscriber owns the Gold Bonds shall not be taken into account for the purposes of, and shall be inadmissible as evidence in, any proceedings under any of the said Acts:

Provided that nothing contained in this sub-section shall apply where any proceedings in respect of the gold subscribed by the subscriber have already been initiated before the commencement of this Act in accordance with the provisions of any of the aforesaid Acts.

45 of 1860,
61 of 1985,
28 of 1987,
49 of 1988.

(2) Nothing in sub-section (1) shall apply in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Terrorist and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988 or for the purposes of enforcement of any civil liability.

Gold Bonds not to be taken into account in certain cases.

5. Without prejudice to the generality of the provisions of section 4,—

(a) the provisions of the Income-tax Act, 1961 shall not apply to— 43 of 1961.

(i) any interest accruing to the subscriber from the Gold Bonds;

(ii) any long-term capital gains arising to the subscriber;

(b) the provisions of the Gift-tax Act, 1953 shall not apply where the gift of the Gold Bonds is made by a subscriber, being an individual, to his spouse, child or parent. 18 of 1958.

Repeal and savings.

6. (1) The Gold Bonds (Immunities and Exemptions) Ordinance, 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act. Ord 22 of 1993.

STATEMENT OF OBJECTS AND REASONS

It was indicated in the Budget speech for the year 1992-93 that Government will introduce a Gold Bond Scheme to mobilise the idle gold resources of ordinary citizens to supplement official reserves and that the proposed Gold Bonds will not attract income-tax or gift-tax and that the holders of the said Bonds will not be asked any questions about the source of the gold holding.

2. With a view to enabling the Central Government to issue the bonds before the end of the financial year 1992-93, the Gold bonds (Immunities and Exemptions) Ordinance, 1993 was promulgated by the President on the 31st day of January, 1993. Section 4 of the said Ordinance grants certain immunities to the subscribers to the Gold Bonds under the Wealth-tax Act, 1957, the Gift-tax Act, 1958, the Income-tax Act, 1961, the Customs Act, 1962, the Foreign Exchange Regulation Act, 1973 and the Foreign Contribution (Regulation) Act, 1976. By virtue of the said immunities, no subscriber will be required to disclose, for any purpose whatsoever, the nature and source of acquisition of the gold subscribed for the Gold Bonds, including the source of money with which the gold was acquired. Further, no inquiry or investigation will be commenced against any subscriber under any of the said Acts on the ground that such subscriber owns the Gold Bonds and the fact of ownership of the Gold Bonds will not be taken into account for the purposes of, and will be inadmissible as evidence in, any proceedings under any of the said Acts. However, the said immunities will not be available in relation to any proceedings connected with the gold subscribed by the subscriber where such proceedings have already been initiated, before the date of promulgation of the Ordinance, in accordance with the provisions of any of the said Acts. Section 5 of the Ordinance provides for certain tax exemptions under the Income-tax Act, 1961 and the Gift-tax Act, 1958.

3. The Bill seeks to replace the above mentioned Ordinance.

MANMOHAN SINGH

NEW DELHI;

The 12th February, 1993.

FINANCIAL MEMORANDUM

Clause 3 of the bill empowers the Central Government to frame a scheme for enabling the subscribers to subscribe to the Gold Bonds, 1998. The scheme, *inter alia*, will provide that the Gold Bonds will be issued to subscribers after the gold tendered by them is assayed by Government Mints. For undertaking this work, the Mints may require certain additional equipment or machines. The scheme will also provide that interest will be paid to the subscribers at the rate of Rs. 40 per gram at the end of 5 years. As per normal practice, charges will have to be paid to the banks for operating the scheme.

The additional expenditure on account of assaying by Mints, interest and other charges cannot be estimated at this stage as it will depend on the number of subscribers and the quantity of gold subscribed.

3. The Bill will not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Government to frame a Scheme enabling the subscribers to apply for purchase of Gold Bonds. The Scheme will contain matters of detail such as form of application, the minimum quantity of gold required for purchasing a Gold Bond, assaying of the gold as tendered by the purchaser of the Gold Bond by the Government mint to determine purity of gold, the interest payable on the Gold Bonds, the period during which the Gold Bonds can be purchased, etc.

2. The matters to be provided in the Scheme are matters of procedure and detail and it is not possible to incorporate the same in the Bill. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 8 OF 1993

A Bill to provide for and regulate the payment of interest on delayed payments to small scale and ancillary industrial undertakings and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Interest on Delayed Payment to Small Scale and Ancillary Industrial Undertakings Act, 1993.

Short title,
extent
and
commence-
ment.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall be deemed to have come into force on the 23rd day of September, 1992.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “ancillary industrial undertaking” has the meaning assigned to it by clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951;

(b) “appointed day” means the day following immediately after the expiry of the period of thirty days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier;

Explanation.—For the purposes of this clause,—

(i) “the day of acceptance” means,—

(a) the day of the actual delivery of goods or the rendering of services; or

(b) where any objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day on which such objection is removed by the supplier;

(ii) “the day of deemed acceptance” means, where no objection is made in writing by the buyer regarding acceptance of goods or services within thirty days from the day of the delivery of goods or the rendering of services, the day of the actual delivery of goods or the rendering of services;

(c) “buyer” means whoever buys any goods or receives any services from a supplier for consideration;

(d) “goods” means every kind of movable property other than actionable claims and money;

(e) “small scale industrial undertaking” has the meaning assigned to it by clause (j) of section 3 of the Industries (Development and Regulation) Act, 1951;

65 of 1951.

(f) “supplier” means an ancillary industrial undertaking or a small scale industrial undertaking holding a permanent registration certificate issued by the Directorate of Industries of a State or Union territory.

Liability
of buyer
to make
payment.

3. Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day.

Date
from
which
and rate
at which
interest
is payable.

4. Where any buyer fails to make payment of the amount to the supplier, as required under section 3, the buyer shall, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, be liable to pay interest to the supplier on that amount from the appointed day or, as the case may be, from the date immediately following the date agreed upon, at such rate which is five per cent. points above the floor rate for comparable lending.

Explanation.—For the purposes of this section, “floor rate for comparable lending” means the highest of the minimum lending rates charged by scheduled banks (not being co-operative banks) on credit limits in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949.

10 of 1949.

Liability
of buyer
to pay
compound
interest.

5. Notwithstanding anything contained in any agreement between a supplier and a buyer or in any law for the time being in force, the buyer shall be liable to pay compound interest (with monthly rests) at the rate mentioned in section 4 on the amount due to the supplier.

6. The amount due from a buyer, together with the amount of interest calculated in accordance with the provisions of section 4 and 5, shall be recoverable by the supplier from the buyer by way of a suit or other proceeding under any law for the time being in force.

Recovery
of amount
due.

7. No appeal against any decree, award or other order shall be entertained by any court or other authority unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such court or, as the case may be, such authority.

Appeal.

8. Where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall specify the amount together with the interest in his annual statement of accounts as remains unpaid to any supplier at the end of each accounting year.

Require-
ment to
specify
unpaid
amount
with
interest
in the
annual
statement
of
accounts.

43 of 1961.

9. Notwithstanding anything contained in the Income-tax Act, 1961, the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction.

Interest
not to
be allowed
as
deduction
from
income.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Over-
riding
effect.

Ord.
4 of 1993.

11. (1) The Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1993 is hereby repealed.

Repeal
and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

A policy statement on small scale industries was made by the Government in Parliament. It was stated at that time that suitable legislation would be brought to ensure prompt payment of money by buyers to the small industrial units.

2. Inadequate working capital in a small scale or an ancillary industrial undertaking causes serious and endemic problems affecting the health of such undertaking. Industries in this sector have also been demanding that adequate measures be taken in this regard. The Small Scale Industries Board, which is an apex advisory body on policies relating to small scale industrial units with representatives from all the States, governmental bodies and the industrial sector, also expressed this view. It was, therefore, felt that prompt payments of money by buyers should be statutorily ensured and mandatory provisions for payment of interest on the outstanding money, in case of default, should be made. The buyers, if required under law to pay interest, would refrain from withholding payments to small scale and ancillary industrial undertakings.

3. Since Parliament was not in Session and circumstances existed which rendered it necessary to take immediate action, the interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1992 (Ord. 15 of 1992) was promulgated by the President on the 23rd September, 1992.

4. Thereafter, the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Bill, 1992 was introduced in the House of the People on the 30th November, 1992, to replace the said Ordinance but the Bill could not be taken up for consideration and passing by Parliament in the Winter Session.

5. Since, according to the provisions of Article 123(2) of the Constitution, an Ordinance shall cease to operate at the expiration of six weeks from the re-assembly of Parliament, and since Government was of the view that it was necessary to continue the operation of the provisions of the Ordinance promulgated on the 23rd September, 1992, and since Parliament was not in session and circumstances existed which rendered it necessary to take immediate action, the said Ordinance was repromulgated by the President on the 2nd January, 1993 as the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1993 (Ord. 4 of 1993).

6. The present Bill seeks to replace the aforesaid Ordinance and to achieve the aforesaid objects.

NEW DELHI;

M. ARUNACHALAM.

The 9th February, 1993.

**PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274
OF THE CONSTITUTION OF INDIA**

[Copy of letter No. 2(1)/92-93-SSI, Bd. dated 12 February, 1993 from Shri M. Arunachalam, Minister of State in the Ministry of Industry (Department of Small Scale Industries and Agro and Rural Industries) to the Secretary-General Lok Sabha.]

The President, having been informed of the subject matter of the Bill on the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings to replace the Ordinance on the same subject, recommends the introduction of the Bill in Lok Sabha under articles 117(1) and 274(1) of the Constitution.

C. K. JAIN,
Secretary-General.